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September 15, 2006

Mary L. Cottrell, Secretary
Department of Telecommunications & Energy
Commonwealth of Massachusetts
One South Station, 2nd Floor
Boston, Massachusetts 02110

**Re: DTE 06-56 – Petition of Charter Fiberlink MA-CCO, LLC
for Arbitration of an Interconnection Agreement.**

Dear Secretary Cottrell:

Enclosed for filing in the above-referenced matter is the Second Motion of Verizon New England for Confidential Treatment.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Alex Moore", followed by a long horizontal line.

Alexander W. Moore

cc: Carol Pieper, Arbitrator
DTE 06-56 Service List

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

In the Matter of Petition for Arbitration of an
Interconnection Agreement Between Charter
Fiberlink MA-CCO, LLC, and Verizon-
Massachusetts Inc.

D.T.E. Docket No. 06-56

**SECOND MOTION OF VERIZON NEW ENGLAND
FOR CONFIDENTIAL TREATMENT**

Verizon New England Inc., d/b/a Verizon Massachusetts (“Verizon MA”) hereby requests that the Department provide confidential treatment for those portions of Verizon MA’s responses to Charter’s Data Requests 1.10, 1.19, 1.21, 1.22, 1.23 Verizon MA has designated as proprietary, and to the documents produced by Verizon MA in response to Charter’s Data Request 1.24 and Document Request 5. As grounds for this motion, Verizon MA states that such data and documents concern: (1) Verizon MA’s costs of providing a fiber meet arrangement and other facilities; (2) traffic volumes over particular fiber meet arrangements with other carriers; and (3) data showing the location, type, age and other characteristics of fiber served out of a number of Verizon MA’s central offices. This data qualifies as trade secrets and is confidential, proprietary and competitively sensitive under Massachusetts law and is therefore entitled to protection from public disclosure. All of this data has been provided to Charter pursuant to the Protective Agreement between the parties.

Argument

Section 5 of Massachusetts General Laws Chapter 25 provides that “[t]he Department may protect from public disclosure trade secrets, confidential, competitively sensitive or other

proprietary information provided in the course of proceedings conducted pursuant to this chapter.”

In determining whether certain information qualifies as a “trade secret,”¹ Massachusetts courts have considered the following:

- (1) the extent to which the information is known outside of the business;
- (2) the extent to which it is known by employees and others involved in the business;
- (3) the extent of measures taken by the employer to guard the secrecy of the information;
- (4) the value of the information to the employer and its competitors;
- (5) the amount of effort or money expended by the employer in developing the information; and
- (6) the ease of difficulty with which the information could be properly acquired or duplicated by others.

Jet Spray Cooler, Inc. v. Crampton, 282 N.E.2d 921, 925 (1972). The protection afforded to trade secrets is widely recognized under both federal and state law. In Board of Trade of Chicago v. Christie Grain & Stock Co., 198 U.S. 236, 250 (1905), the U.S. Supreme Court stated that the board has “the right to keep the work which it had done, or paid for doing, to itself.” Similarly, courts in other jurisdictions have found that “[a] trade secret which is used in one’s business, and which gives one an opportunity to obtain an advantage over competitors who do not know or use it, is private property which could be rendered valueless ... to its owner if

¹ Under Massachusetts law, a trade secret is “anything tangible or electronically kept or stored which constitutes, represents, evidences or records a secret scientific, technical, merchandising, production or management information design, process, procedure, formula, invention or improvement.” Mass. General Laws c. 266, § 30; see also Mass. General Laws c. 4, § 7. The Massachusetts Supreme Judicial Court (“SJC”), quoting from the Restatement of Torts, § 757, has further stated that “[a] trade secret may consist of any formula, pattern, device or compilation of information which is used in one’s business, and which gives him an opportunity to obtain an advantage over competitors ... It may be a formula treating or preserving material, a pattern for a machine or other device, or a list of customers.” J.T. Healy and Son, Inc. v. James Murphy and Son, Inc., 260 N.E.2d 723, 729 (1970).

disclosure of the information to the public and to one's competitors were compelled.” Mountain States Telephone and Telegraph Company v. Department of Public Service Regulation, 634 P.2d 181, 184 (1981).

Verizon MA's response to Charter Request 1.10 estimates the utility of the existing fiber meet points in Massachusetts by setting forth the overall capacity of each such system and the number of activated DS1s on each. This data concerning the use and operation of Verizon MA's network is highly confidential not only to Verizon MA but to the other carriers who are party to these arrangements, in that it indicates the amount of traffic Verizon MA and those carriers exchange and thus the amount of business enjoyed by all parties in those areas. Verizon MA also notes that the Arbitrator Ruling on Motions for Confidential Treatment and Motion for Protective Order dated September 13, 2006 (“Confidentiality Order”) affords confidential treatment to similar information produced by Charter in response to Verizon MA's Requests 12, 13, 15 and 16, concerning traffic volumes.

Verizon MA's responses to Charter Data Requests 1.19, 1.21 and 1.22 and Document Request 5 set forth, in one way or another and in some detail, Verizon MA's costs of building a fiber meet point arrangement, and its response to Charter Data Request 1.23 sets forth Verizon MA's incremental costs for the specific special access facilities Charter currently leases from Verizon MA. Verizon MA maintains all of this data as confidential and does not disclose it outside the company. Given the competitive nature of today's local exchange and other telecommunications markets in Massachusetts, disclosure of such cost information would harm Verizon MA's ability to compete fairly in the market and provide its competitors with a valuable commercial advantage. Verizon MA notes that the Confidentiality Order affords confidential treatment to similar information produced by Charter, in response to the Department's Data

Request Charter 1-7, concerning the labor, engineering, administrative and total costs of building a fiber meet point arrangement.

Finally, by agreement of the parties, Verizon MA has produced in response to Charter Data Request 1.24 three CD's containing fiber plats showing the location, date of installation and other characteristics of the fiber facilities served by certain of Verizon MA's central offices. This database of plats and the means of accessing them electronically is proprietary to Verizon MA and is not available to the public or other carriers. Moreover, this database, a compilation of information, is used regularly by Verizon MA engineers in maintaining and operating the network, and its disclosure to the public or to Verizon MA's competitors would seriously impair Verizon MA's ability to compete in the market while providing a significant competitive advantage to those other carriers.

For these reasons, the commercially valuable, secret information referenced herein should be protected from public disclosure here.

WHEREFORE, Verizon MA respectfully requests that the Department grant this motion.

VERIZON NEW ENGLAND INC.

By its attorneys,



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